

Rural Electric Association

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July 21, 1997

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Office of the Secretary Federal Communications Commission Washington, D.C. 20554

RE: CS Docket No. 97-141

Dear Secretary:

Enclosed please find the original and four copies of comments filed by the Nebraska Rural Electric Association in the above references case.

Rex Carpenter

Yours truly,

General Manager

RC/m enclosures

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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of)

Annual Assessmen For the Delivery of Video Programming)

CS Docket No. 97-141

COMMENTS OF THE NEBRASKA RURAL ELECTRIC ASSOCIATION

Pursuant to Section 1.415 and 1.419 of the Federal Communication Commission (Commission) Rules, the Nebraska Rural Electric Association (NREA) hereby submits comments on the Notice of Inquiry, FCC 97-194, adopted June 3, 1997 and released June 10, 1997, in the above-captioned matter in which the Commission seeks to gather information, data and public comment necessary to prepare its report on competition in video programming markets.

The NREA is a non-profit association serving the interests of 32 rural-oriented power suppliers throughout the state of Nebraska, including three (3) electric cooperatives in Wyoming, and one (1) cooperative in South Dakota. NREA member power systems primarily serve 55,000 ranches and farms across Nebraska and 181,268 total customers. Because Nebraska is sparsely populated, NREA member systems average only about 2.29 customers per mile of line.

Comments

The Commission, in its <u>Notice of Inquiry</u>, supra, seeks comment on the issue of "Pole Attachment Regulation" to study the prospect of increasing competition in markets

for the delivery of video programming. The Commission specifically seeks comment on whether it should recommend that Congress expand the Commission's current statutory authority over cable and telecommunications attachments to utility poles, ducts, conduits, and rights-of-way to include facilities owned by cooperatives and municipalities. The Commission is apparently concerned about the effect that the current exemption has on competition with respect to entities offering telecommunication services, including video services.

The Telecommunications Act of 1996 provides that the Commission prescribe pole attachment rates for jurisdictional entities to be implemented only in those cases where the parties fail to resolve a dispute over such charges during the private, contractual process. Then and only then would Commission-prescribed regulations govern. As for exempted electric cooperatives, the NREA is aware of no instances among its membership whereby pole attachment rates could not be amicably agreed upon by private negotiation between the contractual parties. Attachment rates are nominal when measured against easements paid under other circumstances by utilities to private land owners, and some electric system pole owners charge no fee at all. Electric distribution cooperatives are by their nature rural consumer oriented, and therefore unlikely to do anything to impede the delivery of telecommunication and cable services to their sometimes technologically-hindered remote rural customers. The cable industry's blanket assertion that electric cooperatives act anti-competitively with regard to pole attachments is certainly not supported by the facts in Nebraska.

The NREA believes its members must retain ownership and control over their own electric transmission and distribution lines to continue to provide safe and reliable electric

service at the lowest possible rates to their customers. To that end, the setting of pole attachment rates is best left to negotiation by pole owners and attaching entities. The local contracting parties are in the best position to determine fair attachment rates. There is no evidence to the knowledge of the NREA which would show or suggest that the current unregulated process impedes or adversely affects in any way the competitive delivery of telecommunication services such as video programming.

For the foregoing reasons, the NREA strongly opposes the promulgation and prescription of any pole attachment regulations which would include cooperative utilities.

Respectfully submitted this 21st day of July, 1997.

NEBRASKA RURAL ELECTRIC ASSOCIATION

Rexford J. Carpenter, General Manager

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